

(c) *Applicability of fees.* Fees shall be charged even if no records are ultimately furnished to the requester. Fees apply to various types of requests as follows.

(1) *Commercial use request.* Fees for search time, review time and duplication of records will be charged to requests from or on behalf of one who seeks information for a user or purpose that furthers the commercial, trade or profit interests of the requester or the person on whose behalf the request is made.

(2) *Educational institution or noncommercial scientific institution.* Only duplication fees will be charged to schools or to organizations which operate solely for the purpose of scientific research, the results of which are not intended to promote any particular product or industry. No charge will be made for the first 100 pages duplicated or for search or review time.

(3) *Representative of the news media.* Only duplication fees will be charged to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. No charge will be made for the first 100 pages duplicated or for search or review time.

(4) *Other requesters.* Fees for search time and duplication will be charged to requesters who are not covered by one of the categories above. No charge will be made for the first two hours of search time, the first 100 pages of duplication, or for review time. If the search is for records stored in a computer format, a combination of computer operation charges and search time charges will be waived up to the equivalent of two hours of professional search time.

(d) *Aggregation of requests.* For purposes of determining fees, the Commission may aggregate reasonably related requests if multiple requests are made within a 30-day period or if there is a solid basis for believing that multiple requests were made solely to avoid fees.

(e) *Notification of fees.* A request for Commission records may state that the party is willing to pay fees up to a stated limit for services to be provided in searching, reviewing and duplicating requested records. If such a statement is made, no work will be done that will result in fees beyond the stated limit without written authorization. If no limit is stated, no work will be done that will result in fees in excess of \$25.00 without written authorization from the requester.

(f) *Advance payment of fees.* The Commission may request advance payment of all or part of the fee (i) when fees are expected to exceed \$250; or (ii) when a requester has previously failed to pay fees in a timely fashion.

(g) *Payment of fees.* Payment should be made by check or money order payable to the Commodity Futures Trading Commission.

(h) *Interest on fees.* The Commission will begin charging interest on unpaid bills start-

ing on the 31st day following the day on which the bill was sent. Interest will be at the rate prescribed in 31 U.S.C. 3717.

(i) *Collection of fees.* If fees not paid, the Commission may disclose debts to appropriate authorities for collection or to consumer reporting agencies.

[52 FR 19308, May 22, 1987, as amended at 64 FR 27, Jan. 4, 1999; 69 FR 67507, Nov. 18, 2004]

#### APPENDIX C TO PART 145 [RESERVED]

### PART 146—RECORDS MAINTAINED ON INDIVIDUALS

Sec.

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#### APPENDIX A TO PART 146—FEES FOR COPIES OF RECORDS REQUESTED UNDER THE PRIVACY ACT OF 1974

AUTHORITY: 88 Stat. 1896 (5 U.S.C. 552a), as amended; 88 Stat. 1389 (7 U.S.C. 4a(j)).

SOURCE: 41 FR 3212, Jan. 21, 1976, unless otherwise noted.

#### § 146.1 Purpose and scope.

(a) This part contains the rules of the Commodity Futures Trading Commission implementing the Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a). These rules apply to all records maintained by this Commission which are not excepted or exempted as set forth in § 146.12, insofar as they contain personal information concerning an individual, identify that individual by name or other symbol and are contained in a system of records from which information is retrieved by the individual's name or identifying symbol. Among the primary purposes of these rules are to permit individuals to determine whether information about them is contained in Commission files

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and, if so, to obtain access to that information; to establish procedures whereby individuals may have inaccurate and incomplete information corrected; and, to restrict access by unauthorized persons to that information.

(b) In this part the Commission is also exempting certain Commission systems of records from some of the provisions of the Privacy Act of 1974 that would otherwise be applicable to those systems. These exemptions are authorized under the Privacy Act, 5 U.S.C. 552a(k).

### § 146.2 Definitions.

For purposes of this part 146:

(a) The term *Commission* means the Commodity Futures Trading Commission;

(b) The term *Executive Director* refers to the executive level staff official appointed pursuant to section 2(a)(5) of the Commodity Exchange Act.

(c) The term *FOI, Privacy and Sunshine Acts compliance staff* refers to the staff in the Office of the Secretariat in the Commission's principal office in Washington, DC who are assigned to respond to requests and handle various other matters under the Freedom of Information Act, the Privacy Act of 1974 and the Government in the Sunshine Act;

(d) The term *individual* means a citizen of the United States or an alien lawfully admitted for permanent residence;

(e) The term *maintain* includes maintain, collect, use, or disseminate;

(f) The term *record* means any item, collection, or grouping of information about an individual that is maintained by the Commission, including but not limited to, his education, financial transactions, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual;

(g) The term *system of records* means a group of any records under the control of the Commission from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

(h) The term *system notice* means a notice of the existence and character of

the Commission's system of records published in the FEDERAL REGISTER pursuant to §146.11(a) of these rules;

(i) The term *routine use* means, with respect to the disclosure of a record, the use of that record for a purpose which is compatible with the purpose for which it was collected;

(j) The term *Freedom of Information Act* encompasses both the Freedom of Information Act, as amended, 5 U.S.C. 552, and the Commission's rules contained in part 145 of this title.

(k) The term *agency* means any executive department, military department, Government corporation, Government controlled corporation or other establishment in the Executive branch of the Government or any independent regulatory agency.

[41 FR 3212, Jan. 21, 1976, as amended at 45 FR 26954, Apr. 22, 1980]

### § 146.3 Requests by an individual for information or access.

(a) Any individual may request information on whether a system of records maintained by the Commission contains any information pertaining to him, or may request access to his record or to any information pertaining to him which is contained in a system of records. All requests shall be directed to the FOI, Privacy and Sunshine Acts compliance staff, Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

(b) A request for information or for access to records under this part may be made by mail or in person. The request shall:

(1) Be in writing and signed by the individual making the request;

(2) Include the full name (including the middle name) of the individual seeking the information or record, his home address and telephone number, his business address and telephone number; and

(3) If he is or ever has been registered with the Commission or its predecessor agency, or associated with a firm so registered as a partner, officer or director or 10% shareholder, state in what capacity he is or was registered.